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requesting appointment of appellate counsel. His papers also show he is capable of prosecuting an appeal without a lawyer. Carabello has not shown prejudice based on counsel's failure to appeal. Carabello has not shown any basis to overturn his conviction on appeal. Carabello has not shown that had counsel consulted with him, that he would have appealed or that a favorable outcome would have resulted on appeal.

Under ground two, Carabello claims his attorney failed to object to the managerial role enhancement in the PSI. The PSI in both cases supports a showing that Carabello had a managerial role. Carabello does not raise a specific basis on which counsel could have objected to the managerial role reflected in the PSI which would have achieved a different outcome in the convictions.

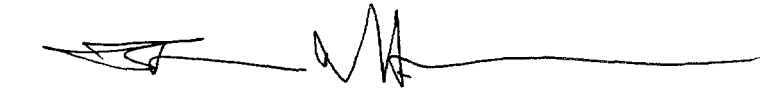
In ground three, Carabello contends counsel failed to argue at sentencing the Government breached the plea agreement when the Government agreed with the role in the offense enhancement of three points, while no role in the offense was pleaded by Carabello. He does not sufficiently show how the government broke the plea agreement such that counsel's failure affected the ultimate outcome.

Finally, counsel failed to object to the PSI representation of a prior offense without obtaining the court's record which would have properly disclosed the facts of prior offense under *Shepard v. U.S.*, 544 U.S. 13. There is no showing that the records in the prior offense would have shown facts sufficiently different to affect the punishment in violation of *Shepard*.

Carabello does not show ineffective assistance of counsel because he does not show how any of counsel's claimed deficiencies prejudiced his defense in district court or on appeal. *Strickland v. Washington*, 466 U.S. 668, 687-88 (1984). He does not show that any of "counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable." *Id.*, at 691. Carabello fails to show that because of his attorney's claimed errors, there is a reasonable probability that the result in the convictions would have been different and that counsel's deficient

performance rendered the proceedings unfair. *Lockhart v. Fretwell*, 506 U.S. 364, 369-70 (1993).

Signed July 9, 2012, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lynn N. Hughes", written over a horizontal line.

Lynn N. Hughes
United States District Judge